

REMARKS

Applicant thanks the Examiner for the thorough consideration given the present application.

Claims 1-9 are now present in this application. Claims 1 and 4 are independent.

Claims 8 and 9 have been added, and claims 1, 3 and 7 have been amended. Reconsideration of this application, as amended, is respectfully requested.

Priority Under 35 U.S.C. § 119

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

Information Disclosure Citation

Applicant thanks the Examiner for considering the references supplied with the Information Disclosure Statements filed 2 June 2006 and 23 September 2005, and for providing Applicant with initialed copies of the PTO-SB08 forms filed therewith.

Specification Objections

The Examiner objected to the specification as failing to provide proper antecedent basis for the subject matter recited in claim 7. Specifically, the Examiner stated that claim 7 recites the preform formed by a master batch method. When dependent on claims 1 and 3, the claim requires the silver based substance to be mixed into the preform and in a layer formed on the preform. By this amendment, claim 7 has been amended to depend only from claim 4. Accordingly, claim 7 is now withdrawn from consideration.

Specification Amendments

The specification has been amended to be consistent with the amendment to claim 3, as required by the Examiner. No new matter is added.

Rejection Under 35 U.S.C. § 112, 2nd Paragraph

Claim 3 stands rejected under 35 U.S.C. § 112, 2nd Paragraph. This rejection is respectfully traversed.

The Examiner has set forth certain instances wherein the claim language is indefinite. Specifically, the Examiner states that the term “multiextrusion” does not accurately describe the disclosed method as there is only one extrusion step.

In order to overcome this rejection, Applicant has amended claim 3 in accordance with the Examiner’s suggestion to correct the deficiency specifically pointed out by the Examiner. Applicant respectfully submits that the claim, as amended, particularly points out and distinctly claims the subject matter which Applicant regards as the invention. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 102 and 35 U.S.C. § 103

Claims 1 and 3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by US 5,556,699 (Niira). Further, claims 1 and 7 are rejected under 35 U.S.C. § 103 as obvious over US 2004/0137202 (Hamilton) in view of Niira, claims 1 and 3 are rejected under 35 U.S.C. § 103 as obvious over US 3,010,861 (Reese) in view of Niira and claim 5 is rejected under 35 U.S.C. § 103 as obvious over Niira in view of US 2002/0185199 (Myers). These rejections are respectfully traversed.

Complete discussions of the Examiner's rejections are set forth in the Office Action, and are not being repeated here.

In each of the rejections, the Examiner referred to column 2, lines 54-59 of Niira as disclosing mixing 0.05 to 0.1% by weight of a silver-based antibiotic substance with a resin based on the total weight of the resin. However, the patent discloses “the antibiotic metal ions are in general contained in the zeolite in an amount preferably ranging from 0.1 to 15% on the basis of weight of the zeolite. In the present invention, the content of the silver ions in the zeolite ranges from 0.1 to 15%, preferably 0.1 to 5%.”

This disclosure refers to the amount of silver in the antibiotic substance, not the amount of antibiotic substance in the resin, as is claimed. When referring to the mixing of the antibiotic

substance into the resin, at col. 4, lines 17-23, the disclosure is silent as to the amount of antibiotic substance used. None of the other art applied by the Examiner cures this defect of Niira.

Applicant respectfully submits that the combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Niira, Hamilton, Reese and Myers, for the reasons explained above. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

New Claims

Claims 8 and 9 have been added for the Examiner's consideration. Applicant submits that claims 8 and 9 depend, either directly or indirectly, from independent claim 1, and are therefore allowable based on their dependence from claim 1 which is believed to be allowable.

In addition, claims 8 and 9 recite further limitations which are not disclosed or made obvious by the applied prior art references. Claim 8 specifies that the antibiotic substance is in the form of pellets and claim 9 recites that the pellets are formed from powder. The advantages of pellets are disclosed in the specification on page 4, lines 7-11. The Examiner states that Niira discloses the use of pellets. However, column 4, lines 17-23 of Niira states that the antibiotic zeolites are pulverized to have an average particle size of not more than 6 microns, most preferably 0.5 to 2 microns. This fine powder cannot be considered pellets, as asserted by the Examiner.

Claims not Acted Upon

Claim 2 is not rejected over prior art nor indicated as containing allowable subject matter. Applicant respectfully requests that claim 2 be acted upon its merits in the next Office Action.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response

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Amendment dated January 8, 2009
Reply to Office Action of August 22, 2008

Docket No.: 2743-0174PUS1

has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

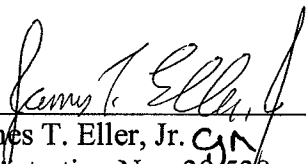
If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Chris McDonald, Registration No. 41,533, at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: January 8, 2009

Respectfully submitted,

By 
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